IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL No 112 of 1999
with
TAX APPEAL NOS.160/99, 161/99,162/99,163/99
and 164/99

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

THE ASST. C.W.T.

Versus

K.KHODIDAS PATEL SPECIFIC FAMILY TRUST.

Appearance:

MR MANISH R BHATT for Appellant in All Appeals

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE C.K.BUCH

Date of decision: 02/02/2000

COMMON JUDGEMENT (PER : J.N.BHATT, J)

1. When the appeals were called out, learned counsel

for the appellant drew our attention that in this group of six appeals, common questions are involved and, therefore, they can be disposed of simultaneously. It appears to us also that in first four appeals viz. Tax Appeal Nos. 112, 160, 161, 162 all of 1999, two questions have been raised, whereas in the remaining two appeals, viz. Tax Appeal Nos. 163 & 164 both of 1999, only one question is raised. Therefore, entire group of six appeals is taken up together and is disposed of simultaneously by this common judgment and order.

2. In Tax Appeal No. 112/99 under sec. 27A of the Wealth Tax Act, 1857, at the instance of Revenue, the following substantial questions of law are raised for the determination of this Court :-

(A) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to adopt the status of the assessee trust as that of an individual ?

(B) Whether, the Appellate Tribunal is right in law and on facts in allowing exemption under section 5(1) of the Wealth Tax Act?

3. In Tax Appeal No. 160/99 under sec. 27A of the Wealth Tax Act, 1857, at the instance of Revenue, the following substantial questions of law are raised for the determination of this Court :-

(1) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to assess the assessee trust under section 21(1) of the Act as against 21(4) as assessed by the Assessing Officer ?

(2) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to allow deduction under section 5(1)(xxvi) of the Act ?

4. In Tax Appeal No. 161/99 under sec. 27A of the Wealth Tax Act, 1857, at the instance of Revenue, the following substantial questions of law are raised for the determination of this Court :-

(1) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to assess the assessee

trust under sec.21(1) of the Act as against 21(4) as assessed by the Assessing Officer ?

(2) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to allow deduction under section 5(1)(xxii) of the Act ?

5. In Tax Appeal No. 162/99 under sec. 27A of the Wealth Tax Act, 1857, at the instance of Revenue, the following substantial questions of law are raised for the determination of this Court :-

(1) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to assess the assessee trust under sec.21(1) of the Act as against 21(4) as assessed by the Assessing Officer ?

(2) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to allow deduction under section 5(1)(xxii) of the Act ?

6. In Tax Appeal No. 163/99 under sec. 27A of the Wealth Tax Act, 1857, at the instance of Revenue, the following substantial question of law is raised for the determination of this Court :-

(1) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to adopt the status of the assessee as an individual ?

7. In Tax Appeal No. 164/99 under sec. 27A of the Wealth Tax Act, 1857, at the instance of Revenue, the following substantial question of law is raised for the determination of this Court :-

(1) Whether, the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to adopt the status of the assessee trust as that of an individual ?

8. In so far as question no.1 in aforesaid first four appeals is concerned, our attention has been drawn by the learned counsel appearing for the Revenue that it has been directly and squarely covered by the decision of

the Division Bench of this Court rendered in "CIT v/s Deepak Family Trust, 211 ITR 1995 P.575 ". We have examined the impugned assessment orders and found that the department has also placed reliance on the aforesaid decision of this Court while making assessment orders. Question No.1, obviously, therefore, has been covered by the aforesaid decision as pointed out by the learned counsel for the Revenue.

9. That will take us to the consideration of Question No.2 in first four appeals. As such, the only question raised in the remaining two appeals is also virtually the same, learned counsel appearing for the appellants drew our attention and pointed out that Question No.2 is consequential to Question No.1 and since Question No.1 is covered, there would not arise any survival value in so far as Question No.2 in first four appeals and sole question in rest of the two appeals is concerned.

10. In the circumstances, the only fate this group of appeals deserves is to dismiss them at the threshold. Accordingly, all these appeals are dismissed. No order as to costs. Copy of this common judgment be placed in rest of the appeal.

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